

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
OF THE STATE OF WASHINGTON

APPEAL FROM PENALTY BY)	
PIONEER SHINGLE COMPANY, INC.)	
)	
Appellant,)	
)	
vs.)	HB 70-41
)	
NORTH WEST AIR POLLUTION)	ORDER AFFIRMING PENALTY
AUTHORITY,)	
)	
Respondent.)	
)	

This is an appeal by Pioneer Shingle Company, Inc. from a civil penalty of \$250.00 imposed by the North West Air Pollution Authority for incinerator burning in violation of Section 1.17 of Regulation II of the North West Air Pollution Authority on January 26, 1971. It came on for hearing before the Pollution Control Hearings Board (Walt Woodward, Hearing Officer), on March 23, 1971, in the council chamber of the Mount Vernon city hall, Washington.

The respondent, North West Air Pollution Authority, offered testimony that appellant, Pioneer Shingle Company, Inc., violated a specific condition of the Variance issued December 2, 1970 in starting burning in a wig-wam waste burner with the wind coming from the prohibited quadrant of south through northeast, and that smoke was blowing from the burner over residential and commercial areas of the city of Anacortes, creating a fog-like situation, although the weather condition was fairly clear.

The appellant conceded that there was burning at the time and place indicated in the civil penalty notice, but contended that there would be no useful purpose served by imposition of the penalty and that this would merely hinder and delay appellant's efforts to arrange for ultimate nonburning disposal of the mill's waste.

The chief witness for the respondent also testified that the smoke from appellant's burner becomes "much more serious" when the fine particulates in the smoke are combined with gases emitted by various chemical and refining plants situated nearby on March Point. He said that when these gases are so combined with the smoke particulates, the smoke is "more harmful."

From the evidence presented, the Board makes the following

FINDINGS OF FACT

There was an incinerator burning in violation of Section 1.17 of Regulation II of the North West Air Pollution Authority on the date of the violation notice of January 26, 1971. Such burning was in violation of a specific condition of a Variance issued by respondent to appellant on December 2, 1970. Smoke was blowing across the city of Anacortes in sufficient density to cause serious atmospheric pollution.

Testimony further shows that appellant was given warning by certified mail on January 6, 1971 by respondent, that violations of the Variance's specific conditions would result in a civil penalty being invoked.

CONCLUSIONS

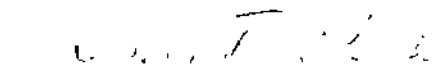
From these facts, the Pollution Control Hearings Board concludes that Pioneer Shingle Company, Inc. is guilty of a violation of Regulation II of the North West Air Pollution Authority, and that under the circumstances, the fine of \$250.00 is permissible and not unreasonable. Based on the foregoing Findings and Conclusion, the penalty appealed from is affirmed.

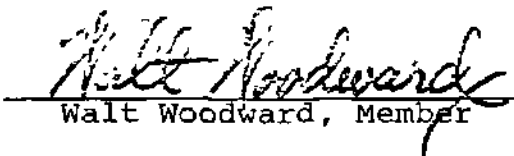
However, the Board is concerned that those firms on March Point, which, according to the respondent's chief witness, are contributors to the "serious" and "harmful" effect of the appellant's burning, have not been made parties to this or similar actions.

DONE at Olympia, Washington this 6th day of April, 1971.

POLLUTION CONTROL HEARINGS BOARD

By 
Matthew W. Hill, Chairman


James T. Sheehy, Member


Walt Woodward, Member